

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL GERALD GAMBOA,

Defendant.

Case No. 3:02-cr-00047

**UNITED STATES' MOTION TO
HOLD IN ABEYANCE**

The United States of America, by Jennifer Klemetsrud Puhl, Acting United States Attorney for the District of North Dakota, and Megan A. Healy, Assistant United States Attorney, hereby request this Court hold in abeyance all further briefing in this matter pending the Supreme Court's final decisions in *Carter v. United States*, No. 24-860, and *Rutherford v. United States*, No. 24-820.

Gamboa filed the instant motion for compassionate release in August 2024. *See* Doc. 657. Before this Court may consider of whether a sentence reduction is appropriate in this case, it must first determine whether Gamboa has shown an extraordinary and compelling reason for a sentence reduction under 18 U.S.C. § 3582(c)(1)(A) and USSG § 1B1.13.¹ Gamboa's pending motion rests on USSG § 1B1.13(b)(6), which allows

¹ Gamboa has filed numerous documents in support of his motion for compassionate release, both counseled and not. Gamboa's counsel filed the instant motion in August 2024. *See* Docs. 657, 657-1 to 657-10, 660, 665, 667, 667-1, 667-2, 668, 668-1, 670, 670-1 to 670-5. The United States opposed Gamboa's motion. Doc. 673, 673-1 to 673-2. Gamboa's counsel filed a reply. Docs. 674, 675, 676, 676-1 to 676-3, 677, 678, 679. Gamboa thereafter filed motions and additional documents pro se. Docs. 680, 682, 683, 684, 686, 686-1 to 686-4, 688, 689, 690. The United States responded to these motions, despite their status as pro se motions. Docs. 681, 687.

district courts to consider nonretroactive changes in the law when assessing whether a movant has established an extraordinary and compelling reason permitting consideration of a sentence reduction motion. Doc. 657. The United States has argued the U.S. Sentencing Commission exceeded the bounds of its congressionally delegated authority in promulgating USSG § 1B1.13(b)(6). Doc. 673 at 9–36. Whether USSG § 1B1.13(b)(6) results from a valid exercise of the Commission’s authority is a potentially dispositive issue here. Cases presenting that legal question are pending at the United States Court of Appeals for the Eighth Circuit. *See United States v. Loggins*, No. 24-1488 (8th Cir., argued and submitted Apr. 17, 2025; *United States v. Crandall*, No. 24-1569 (8th Cir., argued and submitted Apr., 17, 2025).

The Supreme Court has now granted two petitions for writs of certiorari to address this question. *See Carter v. United States*, S. Ct. No. 24-860; *Rutherford v. United States*, S. Ct. No. 24-820. The questions presented will examine whether the Sentencing Commission acted within its congressionally delegated authority by promulgating USSG § 1B1.13(b)(6).

The Eighth Circuit has ordered both *Loggins* and *Crandall* held in abeyance until the Supreme Court issues its final decisions in *Carter* and *Rutherford*. *See Loggins*, No. 24-1488, Entry Id. No. 5531949 (8th Cir., order entered June 30, 2025); *Crandall*, No. 24-1569, Entry Id. No. 5531949 (8th Cir., order entered June 30, 2025). It would be appropriate to do so here as well. As is the case with *Loggins* and *Crandall*, *Carter* and

Rutherford address a potentially dispositive issue pending in this case: whether USSG § 1B1.13(b)(6) is a valid exercise of the Commission's authority.

The United States therefore respectfully requests the Court enter an order holding all pending and further briefing in this matter held in abeyance pending the Supreme Court's final decision in *Carter* and *Rutherford*.

Dated: July 1, 2025

JENNIFER KLEMETSRUD PUHL
Acting United States Attorney

By: /s/ Megan A. Healy
MEGAN A. HEALY
Assistant United States Attorney
MN Bar ID 0387810
655 First Avenue North, Suite 250
Fargo, ND 58102-4932
(701) 297-7400
megan.healy@usdoj.gov
Attorney for United States

CERTIFICATE OF SERVICE

I hereby certify that on July 1, 2025, the above-named document was filed electronically with the Clerk of Court through ECF, and that ECF will send a Notice of Electronic Filing (NEF).

I further certify that a copy of the foregoing documents will be mailed by first class mail, postage paid, to the following non-ECF participant(s):

MICHAEL GAMBOA, Reg No. 06940-059
FCI Butner Medium II
P.O. Box 1500
Butner, NC 27509

Dated: July 1, 2025

/s/ Trina Hiemer

Trina Hiemer
Office of the United States Attorney